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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,254	03/17/2000	Glen John Anderson	1206	4416

24333 7590 09/30/2002

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EXAMINER

SAX, STEVEN PAUL

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 09/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/528254

Applicant(s)

Anderson

Examiner

Sax

Group Art Unit

2174

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-18 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-18 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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### **DETAILED ACTION**

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are vague and indefinite and do not recite essential elements to explain the invention:

In claim 1, means for determining “apparent affective state of the user” is vague in terms of apparent affective state, and also what and how this is determined is not given sufficient description.

Dependent claims 2-5 do not remedy the deficiency. Claim 4 attempts to describe how the determination is made, but “apparent affective state” is still vague.

Dependent claim 6 furthermore is vague in describing how “the apparent emotional state of the writer indicates that the text should be marked” Also, “the” writer lacks antecedent basis (the text could have been typed in and “the writer” therefore is not implicit).

Dependent claims 7-8 do not remedy the deficiency. Furthermore, claim 8 “apparent emotional state of the writer is questionable” is vague and “the writer” is again lacking antecedent basis.

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Claim 9 is vague in “if the apparent emotional state of the writer indicates that the text should be marked” and in “determining the emotional state of the writer”. Note though that claims 10-12 do remedy “determining the emotional state of the writer” but still do not remedy “if the apparent emotional state of the writer indicates that the text should be marked”

Claims 13, 15, and 17 are vague in “if the apparent emotional state of the writer is questionable” and in “determining the emotional state of the writer”. Note though that claims 14, 16, and 18 do remedy “determining the emotional state of the writer” but still do not remedy “if the apparent emotional state of the writer is questionable”

3. Any inquiry concerning this communication should be directed to Steve Sax at telephone number (703) 305-9582.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Sax whose telephone number is (703) 305-9582. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238

After Final Communication

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(703) 746-7239

Official Communication

(703) 746-7420

For Status Inquiries, draft communication

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



STEVEN SAX  
PRIMARY EXAMINER